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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

15 United States of America,

Plaintiff,

CR-24-08132-TUC-RM (EJM)

VS.

United States Sentencing Memorandum

19 | Elizabeth Gutfahr,

Defendant.

Sentencing: June 23, 2025, 2:30 p.m.

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24 The United States of America, by and through, the undersigned government
25 attorneys, submits the following memorandum setting forth the Government's position at
26 sentencing.

Introduction

28 This is a case about the greed of one person. Defendant Elizabeth Gutfahr's

1 (defendant) single common goal was to enrich herself at the expense of the United States
2 and the citizens of Santa Cruz County that elected her to serve as their voice. Defendant
3 was originally elected to serve as Santa Cruz County Treasurer in 2012. Only fourteen
4 months after being sworn in as Treasurer, Defendant began to unlawfully wire money from
5 a Santa Cruz County (“the County”) account directly to an account that she had opened in
6 2011 in the name of Rio Rico Real Estate and Consulting. Over the course of the next ten
7 years, defendant embezzled approximately \$38.7 million dollars from the County and used
8 this money to live a lavish lifestyle that included the purchase of at least a dozen luxury
9 and/or high-end vehicles, several residential properties, and the extensive remodel of an
10 opulent ranch. Defendant’s abuse of the public trust warrants a guideline sentence of 108
11 months imprisonment, three (3) years of supervised release, and restitution to the County
12 in the amount of \$38,712,100.00. This sentence will be a just punishment, promote respect
13 for the law, and deter other public officials from such an egregious abuse of power.

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Factual Background

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Defendant Gutfahr served as Santa Cruz County Treasurer from 2013 through 2024. The Treasurer’s Office is the County’s fiscal custodian and is responsible for collecting taxes, distributing county funds, and the management of the County’s accounts. This includes management of the County’s annual property tax revenue. (PSR, p. 5, ¶ 10.)

Between March 13, 2014, and March 28, 2024, Defendant embezzled approximately \$38,712,100.00 of County funds via 187¹ wire transfers to two accounts. The embezzled amounts are represented below:

¹ A total of 186 wire transfers were drawn on the County’s Chase savings account. Only one (1) wire transfer was drawn on the County’s checking account on November 2, 2021, in the amount of \$225,000.00. (Exhibit 1, Bates No. 3.000001-5.)

Year	Number of Wire Transfers	Amount Embezzled
2014	6	\$386,100.00
2015	12	\$948,000.00
2016	13	\$920,000.00
2017	18	\$1,970,000.00
2018	23	\$2,160,000.00
2019	24	\$3,560,000.00
2020	26	\$4,525,000.00
2021	18	\$4,913,000.00
2022	18	\$5,165,000.00
2023	21	\$11,350,000.00
2024	8	\$2,815,000.00
Total	187	\$38,712,100.00

(Dkt. 12, Plea Agreement, p. 14.)

Defendant used two bank accounts that she opened and controlled to deposit the stolen funds. Using a business account in the name of Rio Rico Real Estate and Consulting (“RRREC”), created by Gutfahr in 2011 as sole proprietor and signer, she wired County funds directly from the County’s saving and checking accounts, to the RRREC business account. RRREC was not an operating business and performed no services for the County. In January 2024, Defendant also opened a separate business checking account with a different financial institution in the name Rio Rico Consulting, LLC (RRC). RRC was also not an operating business and performed no services for the County. In January 2024, defendant began to deposit the stolen County Funds into the RRC account. (Dkt. 12, Plea Agreement, p. 13.)

Defendant was able to perform the wire transfers undetected by fraudulently subverting the two-step approval process for wire transfers. Defendant subverted the two-step process by utilizing the token of her subordinate so that she could both initiate and approve the wire transfers. Defendant lied to this subordinate by stating that the bank account receiving the funds was used to earn interest for the County. (Dkt. 12, Plea Agreement, p.14.)

Defendant falsified accounting and investment records to conceal her thefts. From

1 2018 through 2020, defendant falsified cash reconciliation records by falsely reporting that
 2 some payments for County expenses had not been recorded on the County's general ledger,
 3 knowing this to be false. From 2021 to 2023, defendant generated false UBS Financial
 4 Services statements to fraudulently show that the County had investments in UBS accounts
 5 in the amounts of \$14,000,000.00, \$17,200,000.00, and \$26,531,512.60 for each year 2021
 6 through 2023, when the County did not have this money invested. (Dkt. No. 12, Plea
 7 Agreement, p 15.)

8 Defendant used the stolen public funds to renovate a luxurious ranch, and cattle
 9 ranch,² purchase luxury vehicles for herself and family members, and purchase numerous
 10 other properties.

11 In addition to this embezzlement scheme Defendant concealed the embezzled
 12 money from the United States by failing to report any of the embezzled funds as income.
 13 In the tax year 2023 alone, Defendant evaded more than \$4,000,000.00 in income taxes.
 14 (Dkt. 12, Plea Agreement, p. 17.) The total tax defendant owes for the years 2014 through
 15 2023 is \$13,143,526.00. (*Id.*, ¶21). Defendant told FBI agents in April 2024 that she did
 16 not have time to file her taxes. (Exhibit 2, Interview of Defendant, April 2024, Bates No.
 17 2.000123.)

18 **Legal Analysis**

19 The Ninth Circuit has set forth a basic framework that district courts should follow
 20 in compliance with the Supreme Court's ruling in *United States v. Booker*, 543 U.S. 220
 21 (2005):

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 24
 25 ² Rancho San Cayetano operated as a luxury ranch and horse boarding operation.
 26 Defendant spent approximately \$6,000,000.00 in funds to renovate this ranch and other
 27 properties with funds derived from the embezzlement scheme. A video that depicts the
 28 opulence of this property can be viewed here:
<https://www.youtube.com/watch?v=u0Yhv2z2gFg> (Exhibit 10, Bates No. 9.000381; See
 also Dkt. No. 9, Plea Agreement, p. 15.) The Double D Cattle Company was also
 maintained with embezzled funds. (PSR, ¶ 36; Exh. 9, video of defendant discussing
 Double D Ranch renovations, Bates No. 9.000363.)

1 (1) Courts are to begin all sentencing proceedings by correctly determining the
2 applicable sentencing guidelines range, precisely as they would have before
3 *Booker*.

4 (2) Courts should then consider the § 3553(a) factors to decide if they support
5 the sentence suggested by the parties. Courts may not presume that the
6 guidelines range is reasonable. Nor should the guidelines factors be given
7 more or less weight than any other. The guidelines are simply to be treated
8 as one factor among the § 3553(a) factors that are to be taken into account in
9 arriving at an appropriate sentence.

10 (3) If a court decides that a sentence outside the guidelines is warranted, then it
11 must consider the extent of the deviation and ensure that the justification is
sufficiently compelling to support the degree of the variance.

10 (4) Courts must explain the selected sentence sufficiently to permit meaningful
11 appellate review.

¹² *United States v. Carty*, 520 F.3d 984, 991–92 (9th Cir. 2008).

Sentencing Calculations

A. Maximum Penalties

The maximum penalties for violation of 18 U.S.C. § 666(a)(1)(A) (Count One – Embezzlement of a Public Official), are a term of imprisonment of ten (10) years, a fine up to \$250,000.00, and a term of supervised release not to exceed three (3) years. The maximum penalties for violation of 18 U.S.C. § 1956(a)(1)(B)(i) (Count Two – Money Laundering), are a term of imprisonment of twenty (20) years, a fine up to \$77,424,200.00 – which is twice the value of the embezzled funds (*see*, PSR, p. 1; Dkt. No. 12, Plea Agreement, p. 3), and a term of supervised release not to exceed three (3) years. Finally, the maximum penalties for a violation of 26 U.S.C. § 7201 (Count Three – Tax Evasion), is a fine up to \$100,000.00, a term of imprisonment of five (5) years, or both, and a term of three (3) years supervised release.

B. Sentencing Guideline Calculations

27 “As a matter of administration and to secure nationwide consistency, the Guidelines
28 should be the starting point and the initial benchmark.” *Gall v. United States*, 552 U.S. 38,

1 49 (2007). With the exception of the zero-point offender and substantial financial hardship
2 adjustments, the United States agrees with the calculation of offense level by the United
3 States Probation Office (“USPO”). The United States submits that the defendant’s total
4 offense level is 29 as set forth on page 40 of the Presentence Report. (PSR, p. 40). When
5 combined with the defendant’s criminal history category (I), the guideline range for the
6 defendant is 87 - 108 months imprisonment.

7 ***C. Application of the Zero-Point Offender Adjustment***

8 The recently added section of the Sentencing Guidelines, U.S.S.G. § 4C1.1,
9 provides for a zero-point offender adjustment if a defendant meets certain criteria. In this
10 case, the only questionable condition that would render defendant ineligible for this
11 adjustment would be if “the defendant did not personally cause substantial financial
12 hardship.” See *Id.* “In determining whether the defendant’s acts or omissions resulted in
13 “substantial financial hardship to a victim, the court shall consider, among other things, the
14 non-exhaustive list of factors provided in Application Note 4(F) of the Commentary to
15 §2B1.1” U.S.S.G. §4C1.1(b)(3).

16 U.S.S.G. §2B1.1 advises that, “In determining whether the offense resulted in
17 substantial financial hardship to a victim, the court shall consider, among other factors,
18 whether the offense resulted in the victim-- (i) becoming insolvent; (ii) filing for
19 bankruptcy under the Bankruptcy Code (title 11, United States Code); (iii) suffering
20 substantial loss of a retirement, education, or other savings or investment fund; (iv) making
21 substantial changes to his or her employment, such as postponing his or her retirement
22 plans; (v) making substantial changes to his or her living arrangements, such as relocating
23 to a less expensive home; and (vi) suffering substantial harm to his or her ability to obtain
24 credit.” Application Note 4(F) of the Commentary to §2B1.1.

25 The United States must first meet the definition of “victim” for the substantial
26 financial hardship enhancement to be considered. There is support that a government
27 agency or entity may be considered a “victim” for purposes of applying the enhancement
28 under §2B1.1 for substantial financial hardship. U.S.S.G. §2B1.1(b)(2)(A)(iii). In *United*

1 *States v. Herrera*, a state agency was properly considered a victim for the number of
 2 victims enhancement in the same subsection under U.S.S.G. §2B1.1(b)(2)(A). *See United*
 3 *States v. Herrera*, 974 F.3d 1040 (9th Cir. 2020) (holding on plain error review that “state
 4 governments who suffer losses that are included in the actual loss calculation under
 5 §2B1.1(b)(1) are properly counted as victims for purpose of the number-of-victims
 6 enhancement in §2B1.1(b)(2)(a)(i)”). The court in *Herrera* did not consider the “substantial
 7 financial loss” provision as it relates to government entities.

8 The Crime Victims’ Rights Act (“CVRA”) defines the term “crime victim” as a
 9 person directly or proximately harmed as a result of the commission of a Federal
 10 offense...” *See* 18 U.S.C. §3771(e)(2)(A). While the CVRA, does not further define
 11 person, the scope of that term is defined by the Dictionary Act, which provides that a person
 12 includes “corporations, companies, associations, firms, partnerships, societies, and joint
 13 stock companies.” 1 U.S.C. § 1; *see also* U.S.S.G. § 2B1.1, Application Note 1 (using same
 14 definition). Accordingly, while most entities will be considered victims under the CVRA,
 15 the federal government or any state, local, tribal, or foreign government or agency thereof
 16 will not be.³

17 In this case, whether or not the County may be defined as a victim under § 2B1.1 is
 18 not dispositive, because the factors under § 2B1.1 prelude a finding of substantial financial
 19 hardship. While the government understands the impact that the embezzlement has had on
 20 the public trust and community, the factors listed in §2 B1.1 are not met because the actual
 21 impact remains unknown. The method that will be used to account for the loss has not
 22 been decided. For example, the entities may absorb the loss or taxes may be increased to
 23 absorb the loss.

24 Thus, in the absence of an enhancement for substantial financial hardship,
 25 defendant, qualifies for an additional two-level reduction for zero-point offender. U.S.S.G.
 26 § 4C1.1.

27
 28 ³ In contrast to the CVRA, the government is included in the definition of “victim”
 under the Mandatory Victim Restitution Act (“MVRA”). 18 U.S.C. § 3664(h).

Imposition of Sentence Under 18 U.S.C. § 3553

A. Application of the Guidelines in Imposing a Sentence under 18 U.S.C. §3553(b.)

The Supreme Court has advised that “district courts must begin their analysis with the Guidelines and remain cognizant of them throughout the sentencing process.” *Gall v. United States*, 552 U.S. 38, 50 n.6 (2007). And while those guidelines serve as one factor among several that courts must consider in determining an appropriate sentence, it remains that “the Commission fills an important institutional role: It has the capacity courts lack to base its determinations on empirical data and national experience, guided by a professional staff with appropriate expertise.” *Kimbrough v. United States*, 552 U.S. 85, 90, 108-09 (2007) (internal quotation marks omitted). Thus, “the Commission’s recommendation of a sentencing range will ‘reflect a rough approximation of sentences that might achieve § 3553(a)’s objectives.’” *Id.* (quoting *Rita v. United States*, 551 U.S. 338, 350 (2007)).

The guidelines are the sole means available for assuring some measure of uniformity in sentencing, thereby fulfilling a key congressional goal in adopting the Sentencing Reform Act of 1984. Reference to the guidelines, while carefully considering the § 3553(a) factors, is the only available means of preventing the disfavored result of basing sentences on the luck of the draw in judicial assignments. The guidelines, therefore, deserve significant respect. The Government recognizes that the guidelines are entirely advisory, and that a district court has discretion to vary from an advisory range, subject only to deferential appellate review for reasonableness. A district court, however, must consider the guidelines range, *see* § 3553(a)(4), and is usually well-advised to follow the Sentencing Commission's advice to assure fair, proportionate, and uniform sentencing of criminal offenders. Moreover, there are no other § 3553(a) factors in this case that mitigate against imposition of a sentence within that range; to the contrary, as discussed below the § 3553(a) factors on balance support the imposition of the recommended guidelines sentence.

B. 18 U.S.C. §3553(a) Factors

In sentencing the defendant, some of the factors this court must consider are the

1 need for the sentence to: (1) consider the nature and circumstances of the offense and the
2 history and characteristics of the defendant, 2) reflect the seriousness of the offense,
3 promote respect for the law, and provide just punishment for the offense; (3) avoid
4 unwanted sentencing disparities, and (4) provide restitution to any victims of the offense.
5 See 18 U.S.C. § 3553(a).

6

7 1. The Nature and Circumstances of the Offense and the History and
8 Characteristics of the Defendant

9 The offenses of conviction exemplify a pattern of behavior that exhibits the
10 defendant's dishonesty, disregard for the law, and willingness to turn her back on the
11 community that elected her – all for her personal gain. The defendant indiscriminately stole
12 public funds, took efforts to conceal these crimes, and meanwhile lived a lavish lifestyle.
13 The defendant's embezzlement of funds from the County treasury is a serious offense that
14 undermines the central tenets of public service. Moreover, the money stolen could have
15 certainly been used to help improve the lives of a rural county that relies on a modest tax
16 base to funds schools, fire districts, and other basic services that are relied upon.

17 Defendant's thefts continued for a decade. Defendant stole money repeatedly
18 through 187 wire transfers from the County's bank accounts to support her lavish lifestyle.
19 As the years passed, defendant was stealing so much money that she needed to fabricate
20 false UBS investment account statements showing millions of dollars in false balances to
21 conceal her thefts. (Dkt. No. 12, Plea Agreement, pp. 14-15.) Before this, defendant
22 altered accounting reports to hide her thefts. (*Id.*) In one year alone, she stole over
23 \$11,000,000.00 with one withdrawal exceeding \$2.9 million. (PSR, ¶17.) Defendant did
24 not stop until she was caught.

25 Defendant used the millions of dollars that she stole to purchase houses, ranches,
26 and land. (PSR, ¶ 37; Tracing disclosed at Bates No. 3.000019 to 3.000039.) Defendant
27 then used \$6.4 million more of stolen money to renovate these properties. (PSR ¶ 37.)
28 Defendant spared no expense when it came to spending the County's funds for her own

1 desires.



14 (Bates No. 9.000002.)

15 Defendant also purchased several high value vehicles with the stolen funds,
 16 including a 2015 Mercedes Benz G550, 2016 Cadillac Escalade, 2017 Ford F350 4WD,
 17 2017 Land Rover Discovery, 2017 Yamaha 686, 2018 Airstream Touring Coach, 2019
 18 Entegra Coach Aspire, 2020 Jeep Gladiator Rubicon, 2021 Cadillac Escalade Sport 4WD,
 19 2021 Ford Expedition King Ranch 4WD, 2022 Honda Pioneer 1000 SxS Deluxe, and a
 20 2023 Jeep Grand Wagoneer. (PSR, ¶37; Tracing disclosed at Bates No. 3.000040-
 21 3.000060.)

22 After the purchase of the 2019 Entegra Coach (estimated MSRP of \$470,000.00),
 23 defendant left it to the rodents, and it fell into disrepair. (PSR, ¶ 39.) In fact, the Receiver
 24 appointed to evaluate and sell assets, noted the overall declining state of the entire Gutfahr
 25 estate.⁴ (PSR, ¶ 39.) Clearly, the defendant had no concern for the value of many of the

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 27
 28 ⁴ A Receiver was appointed in the Pima County Superior Court case of Santa Cruz
 County v. Elizabeth Gutfahr, et. al. C20244535. Funds collected are to be credited toward

1 assets because they had come at no cost of her own.

2 Defendant had multiple American Express credit cards. Between 2014 and 2024,
 3 defendant, her husband, and two relatives charged approximately \$4,866,480.00 on the
 4 American Express cards, and the charges were almost entirely paid for by County funds.
 5 (Dkt. No. 27-3, Fourth Interim Receiver's Report.) A significant number of American
 6 Express charges were for luxury clothing, shoes, accessories, jewelry and handbags.⁵ (*Id.*)

7 Defendant had opportunity in her life, but instead she chose to steal. Defendant is
 8 an educated woman with self-proclaimed decades of business experience, including, land
 9 development, accounting, customer service, real estate taxes and property management.
 10 (Exh. 3, Hank Stephenson, *Liz Gutfahr says office needs new leadership,*” Nogales
 11 International, August 14, 2012, https://www.nogalesinternational.com/news/liz-gutfahr-says-office-needs-new-leadership/article_f69ca2b0-e622-11e1-892c-001a4bcf887a.html)
 12 With this experience, the defendant was entrusted by the people of Santa Cruz County to
 13 be their fiscal guardian. Instead, she chose to steal and lie about it to her constituents, other
 14 government agencies, and even the FBI.

15 After she was caught stealing, defendant was misleading and untruthful when she
 16 spoke with the FBI in April 2024. After the bank reported recent suspicious transactions
 17 to the County, County representatives confronted Gutfahr. (Exh. 2, Interview of the
 18 Defendant, April 8, 2024, Bates No. 2.000003-4.) When defendant was later interviewed
 19 by the FBI, she admitted to stealing only the recent amount that the County was told about.

20 Defendant told the FBI Agents that she may be suspended by the County for
 21 transfers that she made to an account from September 2023 through October 2024, an
 22 account she recently opened. (Exh. 2, Bates No. 2.000004-5.) Defendant then lied when
 23 she told the agents that she opened the account because some companies need a
 24 “middleman” if you are going to invest with them. (Exh. 2, Bates No. 2.000004-5.) Later
 25 the balance of restitution owed in this case.

26
 27 ⁵ Adding in American Express payments to defendant's American Express business
 28 credit cards, the payments made for both personal and business credit cards totaled
 approximately \$7.3 million. (PSR, ¶37, Bates No. 3.000011.)

1 on, defendant forgot about her “middleman” story and said that she opened the account to
 2 do business for her cattle business and horse boarding. (Exh. 2, Bates No. 2.000056-
 3 2.000057.) Defendant then turned back to her story that the account was opened for the
 4 County. (Exh. 2, Bates No. 2.000057-58.)

5 Without telling the agents about the millions that she wired into the first account,
 6 defendant told the agents that the amount she wired to the recently opened account was “a
 7 little over \$1.5 million.”⁶ (Exh. 2, Bates No. 2.000062.) Defendant said the only time she
 8 was transferring funds from the County was “the last three months,” and then later stated
 9 again that it was since September [2023]. (Exh. 2, Bates No. 2.000082-84.)

10 Defendant made \$65,000 at the County. (Exh. 2, Bates No. 2.000102.) When asked
 11 how she could afford to purchase properties in the amount of about \$2.8 million, she said
 12 it was because of the horse boarding business and the cattle business. (Exh. 2, Bates No.
 13 2.000179-181.) Later, defendant said business was hard and that is why “this happened.”
 14 (Exh. 2, Bates No. 2.000181.) Defendant had a \$24,000.00 monthly mortgage payment on
 15 her ranch and may have used some County money to pay for it because County money
 16 “might have gotten mixed in there.” (Exh. 2, Bates No. 2.000149-150.)

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20 2. The Need for the Sentence Imposed to Reflect the Seriousness of the
Offense, Promote Respect for the Law, Provide Just Punishment, and
Afford Adequate Deterrence to Criminal Conduct.

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29 A sentence of 108- months imprisonment, concurrent for all counts, is necessary to
 30 reflect the seriousness of defendant’s crimes and provide just punishment. Defendant has
 31 violated the public trust in an unprecedented way, and it may take Santa Cruz County years
 32 to recover.

33 It is the residents of Santa Cruz County that have and will continue to suffer because
 34 of defendant’s greed. The following examples are from the interviews and impact

35 ⁶ The account that defendant opened during this time period in about January 2024
 36 was the Rio Rico Consulting account ending in 6896, which defendant used to deposit
 37 approximately \$1.8 million in stolen County funds. (Exh. 1).

1 statements of representatives of school and fire districts from Santa Cruz County that may
2 need to absorb potentially large shares of the loss.⁷ Although the economic effect of the
3 embezzlement is not yet known, the following examples demonstrate the demographics of
4 the County and the chaos and anxiety that defendant has caused.

5 The Santa Cruz Valley Unified School District No. 35 (District No. 35) faces
6 considerable economic challenges. It has a poverty rate of 20%, a median household
7 income of \$51,885, and an unemployment rate higher than the state average. (Dkt. No. 27-
8 3, Impact Statement, Santa Cruz Valley Unified School District No. 35, Bates No.
9 9.000050.) District 35's allocation of the loss is reported to be over \$14 million. (*Id.*)
10 Even with its share of restitution through asset recovery by the Receiver, estimated at about
11 \$4.3 million, District 35 may still have a loss of approximately \$10 million. (*Id.*)

12 At the same time, District 35 is in critical need of building weatherization and
13 drainage repairs because it experiences severe flooding in the monsoon season. (Dkt. No.
14 27-3, Bates No. 9.000050.) The estimated cost to address these urgent repairs is \$3.2
15 million. (*Id.*) In the future, District 35 will need to restate financial statements and the
16 District's credit rating may be significantly impacted. (*Id.*)

17 It is also difficult to quantify the loss of District 35's ability to reach out to the
18 community and ask for approval to increase taxes for capital expenses or operating funds.
19 (Exh. 4, Interview of CFO and counsel for Santa Cruz Valley Unified School District No.
20 35, Bates No. 9.000420-9.000421.) The ability to rebuild public trust is unknown. (Exh.
21 4, Bates Nos., 9.000420.) The cost of future bonds is also an unknown. (Exh. 4, Bates No.
22 9.000421.) Additionally, the only recourse for the district to recoup any funds not
23 reimbursed by the County (estimated at \$10 million) would be to assess taxes against a
24 community which is not affluent and cannot easily afford a tax increase. (Exh. 4, Bates
25 No. 9.000427.)

26 _____
27 28 ⁷ Each of the entities, such as the school and fire districts, that had funds maintained
by the County, have a potential loss allocated based on the amount of funds the County
maintained for the entity.

1 Similar to District 35, the Nogales United School District (Nogales District) has a
2 poverty level of about 20%. (Dkt. No. 27-2, Impact Statement Nogales United School
3 District, Bates No. 9.000256.) It serves approximately 5700 students. (*Id.*) The impact
4 on the Nogales School District is estimated at \$11,242,072.45 (before any restitution
5 allocation). (*Id.*) This amount is one-third of the management and operations budget for
6 the year. (*Id.*) For example, if this total loss were charged to the books in one year, this
7 would equate to a loss of 160 to 170 full-time teaching positions. (*Id.*)

8 Additionally, as part of a needs assessment to decide upon a bond sale, the Nogales
9 District was assessed to have millions of dollars in needs. There are needs for aging
10 buildings, new HVAC units, emergency expenditures on water and gas lines for declining
11 utility lines and pipes, failing fire alarm and intercom systems, and the need to repair aging
12 athletic facilities. (Dkt. No. 27-2, Bates Nos. 9.000257-9.000258.)

13 Santa Cruz Elementary School District No. 28 (District 28) is a small rural school
14 outside of Nogales, Arizona with approximately 127 students. (Exh. 5, Interview of
15 Superintendent/Principal, and counsel for the district, Bates No. 9.000450.) District 28
16 estimates that their share of the loss is under \$70,000.00. (*Id.*, Bates No. 9.000447.) Last
17 year, the school district was classified as a high financial risk because of the low student
18 enrollment. (*Id.*) Part of the problem was the cash from property tax. (*Id.*, Bates No.
19 9.000450.) However, the school pulled out of high financial risk category. (*Id.*, Bates No.
20 000450-451.)

21 The Superintendent of Santa Cruz District 28 stated that, “[e]very penny that comes
22 in is crucial for what we do for our students.” (Exh. 5, Bates No. 9.000451.) The school
23 needs a new basketball court tarp to shade the children (\$30,000 to 40,000 to repair), the
24 gym floor is in dire need of repair, and there is no funding for afterschool programs after a
25 grant was no longer available. (*Id.*, Bates No. 9.000454-455.)

26 The Sonoita District No. 25 has a potential loss of \$516,000 (before any restitution
27 allocation of an estimated amount of \$162,000). (Exh. 6, Interview with Superintendent
28 Sonoita District 25 and Business Manager, Bates No. 9.00138,141.) The Sonoita school

1 district Superintendent would like to replace a 25-year-old building which was meant as a
2 temporary structure and put in a new science lab for the middle-school. (*Id.*, Bates No.
3 9.000149.) The \$500,00.00 that defendant stole would almost pay for it. (*Id.*) However,
4 there has been no official budget set for this. (*Id.*, Bates No. 9.000152.) For a school
5 district with only a \$2 million dollar budget, \$500,000.00 could pay for such things as
6 increasing teacher pay, recruiting teachers, implementing curriculum, and buying new
7 desks. (*Id.*) The Superintendent stated that “[i]t’s a big chunk of money for a really small
8 district.” (*Id.*)

9 The Patagonia Elementary and High School Districts would also be affected by a
10 cash shortfall. If the thefts are charged against the Patagonia school districts’ cash accounts
11 over one year the amount could be as much a total of \$1,344,686.60. (Exh. 7, Interview of
12 Superintendent for Patagonia Elementary and High School Districts, and Business
13 Manager for Patagonia Elementary, Bates No. 9.000110-111.) It would affect the district’s
14 ability to retain teachers by giving them appropriate raises. (*Id.*, Bates No. 9.000115.) The
15 Superintendent stated that in order for the Patagonia school districts to recover, “[i]t’ll take
16 us a decade at least, probably.” (*Id.*, Bates No. 9.000116.) The Patagonia school districts
17 have been discussing eliminating the music or art programs to make payroll if cash is short.
18 (Bates No. 9.000113-114.)

19 The Rio Rico Fire District allocation of the loss is approximately \$1.6 million
20 dollars. (Exh. 8, Interview of Fire Chief and Administrative Manager for Rio Rico Fire
21 District, Bates. No. 9.000395.) After a potential reimbursement from the County of
22 \$320,000.00 the loss will be about \$1.3 million. (*Id.*) The district has had to reevaluate
23 the purchasing of equipment and morale has suffered. (Bates No. 9.000386.) There is
24 uncertainty about whether the district will be able to buy the ambulances and trucks needed.
25 (*Id.*, Bates No. 9.000394.)

26 3. The need to avoid unwanted sentencing disparities.

27 There may be few cases comparable to defendant’s theft of \$38.7 million dollars
28 while serving as a public servant in a rural community. In *United States. v. Crundwell*, the

1 defendant was the comptroller of a small city with a population of less than 16,000. *United*
 2 *States v. Crundwell*, 735 F.3d 743, 746 (7th Cir. 2013). Over twenty years, defendant stole
 3 \$53,000,000.00 dollars of public funds to support a lavish lifestyle, including more than
 4 400 quarter horses. *Id.* at 744. Defendant was convicted of wire fraud in violation of Title
 5 18 U.S.C. § 1343. Defendant Crundwell was sentenced to 235 months imprisonment
 6 because she single-handedly stole from the citizens of a small community ten times as
 7 much as public officials in the Teapot Dome Affair, “the national government’s most
 8 notorious financial scandal.” *Id.* at 746.

9 The underlying facts in *Crundwell* are very similar. Defendant Crundwell opened
 10 an account at a local bank, naming it a “Reserve Fund” to make it look legitimate, and had
 11 sole control over disbursements. *Id.* at 744. Crundwell was also less than totally honest
 12 when she told prosecutors that the crime began a decade earlier than it actually did. *Id.* at
 13 745.

14 **4. Restitution**

15 In the plea agreement, defendant agreed to pay restitution to Santa Cruz County in
 16 the amount of \$38,712,100.00. (Dkt. No. 12, Plea Agreement, ¶ 20). The defendant agreed
 17 to not to contest the sales of assets subject to the Receivership in C20244535. (Dkt. No.
 18 12. ¶ 20). As of March 31, 2025, the gross cash recovered through the Receivership is
 19 \$6,728,882.00. (Dkt. No. 27-6, Fourth Receiver’s Report). The estimated gross recovery
 20 value of future asset sales is between \$10,738,610.00 and \$13,528,610.00. Even so,
 21 defendant will never make the County resident’s whole.

22 The defendant also agreed in the plea agreement to pay restitution to the United
 23 States Treasury in the amount of \$13,143,526.00 for tax years 2014 through 2023. (Dkt.
 24 No. 12, ¶ 21.) Payment of restitution to the U.S. Treasury will follow payment in full of
 25 restitution owed to Santa Cruz County in the amount of \$38,712,100.00 and the satisfaction
 26 of any judgment under C20244535.

27 The United States proposes that an order of restitution be deferred until 60 days
 28 following sentencing to reduce the amount of the restitution order by the gross recovery of

1 funds through the Receiver on or before that date. The parties will file a Proposed
2 Restitution Order with the Court. It is proposed that following the order of restitution, any
3 amounts collected by the Receiver shall be credited against the balance owed to Santa Cruz
4 County. Under the proposed restitution order, the Clerk's Office would credit the
5 restitution owed to Santa Cruz County upon: 1) a Notice of Receipt of Funds filed by the
6 Santa Cruz County Board of Supervisors with a copy of the payment attached (wire transfer
7 record, check, etc.), or 2) any direct payment of funds through the Clerk of the United
8 States District Court, Tucson, Arizona.

9 Defense counsel and the attorneys for the Santa Cruz County Board of Supervisors
10 were contacted about the above proposed restitution order to obtain their position.

11 **CONCLUSION**

12 For all of the foregoing reasons, defendant's abuse of the public trust warrants a
13 guideline sentence of 108 months imprisonment, three (3) years of supervised release, and
14 restitution to the County in the amount of \$38,712,100.00. This sentence will be a just
15 punishment, promote respect for the law, and deter other public officials from such an
16 egregious abuse of power.

17 Respectfully submitted this 16th of June 2025.

18
19 TIMOTHY COURCHAINE
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21
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24
25 Copy served electronically
on June 16, 2025, to all ECF participants.

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